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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,897

05/31/2007

Elisabeth Panchaud-Mirabel

9526-94

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06/26/2009

AKERMAN SENTERFITT

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EXAMINER

HAAS, WENDY C

ART UNIT

PAPER NUMBER

1661

MAIL DATE

DELIVERY MODE

06/26/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,897	Applicant(s) PANCHAUD-MIRABEL, ELISABETH	
	Examiner WENDY C. HAAS	Art Unit 1661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 1-5,9-12 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-8 and 13 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/10/6 11/10/8</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Priority

The priority claim to PCT/EP2005/001262 is proper and priority is granted.

Information Disclosure Statement

The information disclosure statements (IDS) submitted on 8/10/2006 and 11/10/2008 have been considered by the examiner. ***Claim Objections***

Claim 8 is objected to because of the following informalities: diammonium is misspelled as "diainmonium". Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-8 and 13 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Takahashi et al., United States Patent Number 5643775.

'775 teaches culture media for filamentary fungi and notes that media can be composed of any one of a number group of constituents well-known in the art including molasses, sucrose, yeast extract, corn steep liquor, and diammonium hydrogen phosphate. '775 teaches that these are all standard ingredients that can be successfully used in any combination to culture filamentary fungi. '775 also notes temperature ranges from 20 to 40 degrees Celsius are standard in the art. Other parameters are obvious optimizations.

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Claims 6-8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al., United States Patent Number 5643775 in view of Kobayashi, United States Patent Number 3625826.

The '775 patent teaches the components of applicants claimed media and methods of using them to culture filamentary fungi. The '775 patent also teaches temperature ranges. The '775 patent does not teach the particular combination or concentration of media components or a time of incubation.

The '826 patent teaches that as early as 1971 corn steep liquor, molasses, yeast extract, sucrose and ammoniates were well-known media components to utilize in filamentary fungi culture. The '826 patent also teaches concentrations in a 2 to 50% range, and culture conditions within the claimed optimal range (30 degrees Celsius for 5 days) as well. It would be obvious to one of ordinary skill in the art at the time the invention was made to optimize the concentrations of well-known media ingredients to create a preferable medium and culture system. This would not require undue experimentation as each component as well as the culture conditions used have been known to be advantageous and capable of being utilized together for at least 38 years. As such, the invention was prima facie obvious at the time it was made.

Conclusion

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WENDY C. HAAS whose telephone number is (571)272-0976. The examiner can normally be reached on Monday through Friday from 9:00 to 5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571) 272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Wendy C Haas/
Primary Examiner, Art Unit 1661